

Wyden Amendment #C1 to the Chairman's Mark of America's Healthy Future Act of 2009 Title I Subtitle A

Short Title: To ensure affordable access to health insurance exchange plans for all Americans

Description:

This amendment adds the following to the Chairman's Mark.

This amendment gives every American the ability to either choose to keep the coverage they have or pick a plan that works better for them and their family. It guarantees both choice and portability by creating a path for employers to insure their workers through the state-based insurance exchange. This amendment also recognizes that employers play an important role in ensuring that their employees have health coverage and gives employers a choice in how they fulfill that role. This amendment honors President Obama's pledge that everyone can keep the coverage they have while making it possible for individuals and families who don't like their current coverage to get a good quality, affordable alternative at an insurance exchange.

Employer Coverage Options: Under this amendment, employers that offer group health coverage meeting the minimum requirements under the Act would have the following options:

1. The employer would offer all individuals eligible for coverage under their plan a voucher equal to the amount that the employer would pay for their coverage under the plan that they sponsor. These workers would have the choice to:

- $\frac{3}{4}$ Forfeit the voucher to take the health plan offered by employer; or

- $\frac{3}{4}$ Decline the employer plan and use the voucher to take coverage through the local exchange. If workers select a plan that costs less than the voucher amount, they can keep the unspent amount as cash.

2. The employer can offer two or more health plans where at least one has a premium that is less than or equal to the average of the premiums for the two lowest cost "gold level" health plans in the area exchange. The amount of the employer contribution must be the same regardless of the plan selected by the worker. If the employer contribution amount exceeds the premium for the lower cost health plan, the worker retains the difference as cash.

Tax Treatment of Benefits: Under both approaches, the employer contribution for health insurance, including the voucher amount, is exempt from taxation except to the extent that they do not exceed the employer tax exclusion caps under the Act (i.e., \$8,000 individual, \$21,000 family). However, if the voucher amount exceeds the cost of insurance purchased in the exchange, the difference is taxable income to the employee. The employer will continue to be able to deduct the full amount of their costs including voucher payments.

Risk Adjustment: All employers electing the voucher option would be required to participate in a reinsurance pool encompassing the plan offered by the employer and the plans in the exchange. The

reinsurance is fully funded with an assessment applied uniformly to affected employers and exchange plans. Employers that decide to offer a choice of plans rather than offer vouchers are exempt from participation in the reinsurance pool.

More Choice for Workers: Workers who don't like their employer plans can choose to go to the exchange and choose any plan available through the exchange. If their employer currently provides health coverage, the workers will get a voucher equal to the money their employer currently pays to help pay the cost of an exchange plan. The voucher amount would be excluded from the employee's income and the cost of the voucher would be deductible by the employer. If the workers choose a plan that costs less than they have currently, they get rewarded with extra money in their pockets.

More Choice for Employers: Employers also have more choices: they can give their workers the ability to buy health coverage in the exchange or bring their entire group to the exchange and get a discount. This choice could be phased in for the mid-sized and large employers over a few years after the exchange gets going.

Employers with good health plans will be able to maintain their plans because they will offer their workers better value. Employers with high cost, low value plans can cut their costs by letting their workers go to the exchange.

Cost Containment: The plan would reward consumers for selecting more efficient lower cost plans by enabling them to retain the full amount saved by electing a lower-cost option.

Transition to the Free Choice System

Year 1— People who are currently in the individual market plus small employers with up to 25 workers and the uninsured have access to the exchange.

Year 2-- Add employers with up to 100 workers to the exchange.

Year 3 – Open exchanges to all employers.

Offset: The Lewin Group has estimated that the Free Choice proposal would reduce national health spending by \$360 billion over the next 10 years and this reduced health spending would reduce the amount of revenue foregone through the health tax exclusion by \$129.8 billion over that 10-year period. Thus, the amendment should raise revenue. It should complement and enhance the “stick” provided by the excise tax on high cost plans by providing a “carrot” to encourage selection of low cost, high value plans.

Wyden Amendment #C2 to the Chairman's Mark of America's Healthy Future Act of 2009 Title I Subtitle C Section "Health Care Affordability Tax Credits"

Short Title: To increase low-income subsidies to 400% of the Federal Poverty Level and lower cost-sharing

Description:

Without access to affordable health care coverage either through the employer based system or an insurance exchange, millions of Americans may continue to be uninsured or underinsured. Affordable health care coverage is also a necessary component to make sure that the insurance market reforms such as an individual mandate and guarantee issue work. Without all Americans in the health insurance system, there will continue to be problems with adverse risk selection and cherry picking.

Replacing the language in the Chairman's mark on low-income subsidies with a 400% FPL upper limit to the sliding scale would ensure affordability of coverage, help to reduce the number of uninsured in the country, and protect the interest of American families, particularly in harsh economic times. Additional revenues from the offset shall go toward lowering out of pocket costs for individuals between 200% and 400% of the Federal Poverty Level.

Offset: Tax revenues related to Internet gaming authorized to be collected under the Internet Gambling Regulation, Consumer Protection and Enforcement Act (H.R. 2267) or similar legislation authorizing such activities.

Wyden Amendment #C3 to the Chairman's Mark of America's Healthy Future Act of 2009
Title I Subtitle C

Short Title: Exchange Plans As Good As Members of Congress

Description:

This amendment adds the following to the Chairman's Mark.

All states must ensure that there are available in every exchange plans that are actuarially equivalent to the Blue Cross Blue Shield Standard Option in the Federal Employees Health Benefits Program.

Offset: This amendment will not result in increased cost.

Wyden Amendment #C4 to the Chairman's Mark of America's Healthy Future Act of 2009
Title I Subtitle A

Short Title: Seamless Portability: Exchange Plans for Life.

Description: Under the Chairman's Mark, a person who goes in and out of the job market will have to change insurance plans multiple times. After losing a job, a person may go to the exchange and receive a low-income subsidy. Then if she gets a new job that offers what is defined as "affordable" coverage, she has to change plans yet again.

This amendment adds language to the Chairman's Mark that would **allow people to keep their exchange plans indefinitely**.

Employers that offer coverage will be required to offer every new employee who has an exchange plan a tax-free voucher worth at least 70% of the average of the three lowest cost plans in the exchange. Workers with vouchers will not be eligible for the low-income subsidies in the exchange.

Offset: This amendment will not result in increased cost.

Wyden Amendment #C5 to the Chairman's Mark of America's Healthy Future Act of 2009
Title I Subtitle A

Short Title: Seamless Portability – No Need for COBRA

Description: To amend the State Exchange and Marketing Requirements and Health Care Affordability Tax Credits sections of the Mark to assist Americans who have lost their employment, particularly due to the recent economic recession. Application for unemployment insurance is to be considered as qualifying as a “change in circumstance” that allows Health Care Affordability Tax Credits to be reassessed, not having them based simply on the prior year's Federal income tax return. The amendment will also to require that the Secretary and/or states come up with guidelines on how to use unemployment insurance applications as part of an automatic enrollment process for Health Care Affordability Tax Credits. As in all other cases, income eligibility will be reconciled retrospectively on the individual's forthcoming Federal income tax return.

Offset: This amendment will not result in increased cost.

Wyden Amendment #C6 to the Chairman's Mark of America's Healthy Future Act of 2009
Title I Subtitle C

Short Title: Equal Access to Congressional Health Benefits for Working Families to Guarantee Affordability

Description: The amendment would allow all individuals who meet the requirements of the bill to be exempted from the personal responsibility requirement for health insurance to purchase any health plan offered through the Federal Employees Health Benefit Plan in their region. For workers who are offered coverage through their employer where the employee contribution exceeds 10% of the employee's AGI the employer must provide their contribution to the employee's health benefits in the form of a voucher which may be used to purchase any FEHBP plan offered in their region. Individuals would be included in the existing risk pool that includes all federal employees including Members of Congress. Individuals eligible under this amendment shall not receive premium subsidies from the FEHBP except as provided by their employer voucher. Certification that an individual is exempt from the personal responsibility requirement or the receipt of a premium notice that would exceed 10% of previous year's income will be a qualifying event for purposes of FEHBP enrollment. OPM, in consultation with HHS shall establish a national exchange to connect eligible workers with the FEHBP system. All revenues from the Administrative fee for non-government enrollees shall go to the management of the non-government exchange. .

Offset: This amendment will not result in increased cost.

Wyden Amendment #C7 to the Chairman's Mark of America's Healthy Future Act of 2009
Title I Subtitle A

Short Title: Slashing Administrative Costs of Health Insurance

Description:

This amendment adds the following to the Chairman's Mark.

All insurance companies offering plans in the individual, small, and large group markets that have not been grandfathered will have to abide by an 85% minimum loss ratio, meaning that of total costs, 85% must be spent on delivery of medical care. The Secretary is directed to include profits in administrative costs, and to exclude the cost of coordinating care, particularly in chronic care management services. The Secretary of Health and Human Services will define what other costs are defined as administrative costs.

Offset: This amendment will not result in increased cost.

Wyden Amendment #C8 to the Chairman's Mark of America's Healthy Future Act of 2009
Title I Subtitle A

Short Title: Empowering States to be Innovative

Description:

This amendment adds the following to the Chairman's Mark.

A State may be granted a waiver if the state applies to the Secretary to provide health care coverage that is at least as comprehensive as required under the Chairman's Mark. States may seek a waiver through a process similar to Medicaid and CHIP. If the State submits a waiver to the Secretary, the Secretary must respond no later than 180 days and if the Secretary refuses to grant a waiver, the Secretary must notify the State and Congress about why the waiver was not granted.

a) IN GENERAL.—A State that meets the requirements of this Act such that all residents have affordable, quality insurance coverage shall be eligible for a waiver of applicable Federal health-related program requirements.

b) ELIGIBILITY REQUIREMENTS.—A State shall be eligible to receive a waiver under this section if—

(1) the State approves a plan to provide health care coverage to its residents that is at least as comprehensive as the coverage required under an exchange plan;

(2) the State approves a plan that will ensure all residents have coverage; and,

(3) the State submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a comprehensive description of the State legislation or plan for implementing the State-based health plan.

(c) DETERMINATIONS BY SECRETARY.—

(1) IN GENERAL.—Not later than 180 days after the receipt of an application from a State under subsection (b)(2), the Secretary shall make a determination with respect to the granting of a waiver under this section to such State.

(2) GRANTING OF WAIVER.—If the Secretary determines that a waiver should be granted under this section, the Secretary shall notify the State involved of such determination and the terms and effectiveness of such waiver.

(3) REFUSAL TO GRANT WAIVER.—If the Secretary refuses to grant a waiver under this section, the Secretary shall—

(A) notify the State involved of such determination, and the reasons therefore; and

(B) notify the appropriate committees of Congress of such determination and the reasons therefore.

(d) SCOPE OF WAIVERS.—The Secretary shall determine the scope of a waiver granted to a State under this section, including which Federal laws and requirements will not apply to the State under the waiver.

Offset: This amendment will not result in increased cost.

Wyden Amendment #C9 to the Chairman's Mark of America's Healthy Future Act of 2009
Title I Subtitle A

Short Title: To limit insurance rating based on age in the individual and group markets.

Description:

The chairman's mark allows age rating up to 5:1. This means that a 55 year old could be charged five times the premium than a 20 year old. The policy of allowing age-rating makes health coverage unaffordable for older individuals. Successful risk pooling will allow risks to be spread across populations and community rating would result in administrative ease, due to the fact that everyone in a health plan would be charged the same premium.

Replace the language in the Chairman's mark that allows age rating on a 5:1 scale with a limit on age rating of no more than 2:1.

Offset: Allow increased the limit on variation of premiums for tobacco use to be increased as necessary.

Wyden Amendment #C10 to the Chairman's Mark of America's Healthy Future Act of 2009

Short Title: Expanding States Access to Home and Community-Based Care

Description:

If a State decides to do a waiver similar to the Vermont waiver which allows individuals to have access to home and community based services, so long as the State meets criteria specified, the State may automatically implement the program. See section 311 in the Healthy Americans Act.

Offset: This amendment will not result in increased cost.

Wyden Amendment #C11 to the Chairman's Mark of America's Healthy Future Act of 2009 Title I, Subtitle G, Part 4

Short Title: Helping States with Extraordinary Long Waiting Lists for Medicaid

Description: To clarify that Medicaid beneficiaries in states with waiver-approved waiting lists will be considered “newly eligible” and will qualify for additional Federal financial assistance.

Offset: This amendment will not result in increased cost.

Wyden Amendment #C12 to the Chairman's Mark of America's Healthy Future Act of 2009

Short Title: Employer Fair Share Contribution

Description: The "Employer Offer of Health Insurance Coverage" section of Subtitle D of Title 1 of the Chairman's Mark does not require employers to offer insurance. It only requires a financial penalty for employers whose workers receiving low-income "Health Care Affordability Tax Credits." This could result in bias for hiring low-income workers.

This amendment strikes and replaces the "Employer Offer of Health Insurance Coverage" provision with an employer responsibility payment for employees failing to offer at least minimal credible coverage.

Replace "Employer Offer of Health Insurance Coverage" and "Required Payments for Employees Receiving Premium Credits" sections of Subtitle D of the Chairman's mark with the following:

Every employer must make an employer shared responsibility payment (ESR) for each calendar year in the amount equal to the number of full time equivalent employees who are not offered coverage by the employer during the previous year multiplied by a percentage of the average lowest cost plan premium amount on the exchange. The first 25 full-time equivalent employees will be excluded from this requirement. The percentage used is determined by size and revenue per employer.

Once in effect, the percentages employers would pay are:

Large employers:

0-20th percentile 17%

21st - 40th percentile 19%

41st - 60th percentile 21%

61st-80th percentile 23%

81st-99th percentile 25%

Small employers:

0-20th percentile 2%

21st - 40th percentile 4%

41st - 60th percentile 6%

61st-80th percentile 8%

81st-99th percentile 10%

At the beginning of each calendar year, the Secretary in consultation with the Secretary of Labor shall publish a table based on a sampling of employers to be used in determining the national percentile for revenue per employee amounts.

Offset: This amendment will result in savings to the Federal government.

Wyden Amendment #D1 to the Chairman's Mark of America's Healthy Future Act of 2009
Title III Subtitle B Part I

Short Title: Ensuring People in Hospice Do Not Have to Give Up the Prospect of a Cure

Description:

This amendment adds the following to the Chairman's Mark.

Creates a Medicare Hospice Concurrent Care (HCC) three-year demonstration program that would allow patients who are eligible for hospice care to also receive all other Medicare covered services during the same period of time. To examine the effectiveness this delivery model, the Secretary would establish 26 sites across the country in both urban and rural areas to examine improvement in patient care, quality of life, and cost-effectiveness that results from the concurrent care model. An independent evaluation of this delivery model would be conducted with reports submitted to the Secretary and Congress. This demonstration would be required to be budget neutral.

The Secretary shall ensure that the aggregate expenditures under title XVIII of the Social Security Act do not exceed the amount of expenditures that the Secretary estimates would have been made under such title if the demonstration program had not been implemented.

Offset: This amendment will not result in increased cost.

Wyden Amendment #D2 to the Chairman's Mark of America's Healthy Future Act of 2009
Title III Subtitle B Part I

Short Title: The Independence at Home (IAH) Act, S.1131, seeks to provide high cost Medicare beneficiaries suffering from multiple chronic conditions with coordinated, primary care services in their homes or residences from a team of qualified health care professionals.

Cosponsors: Carper

Description: Medicare beneficiaries with multiple chronic conditions account for a disproportionate amount of Medicare spending, receive poor care, and account for a majority of hospital admissions, prescriptions, and physician visits. Interdisciplinary teams of health care professionals caring for patients with multiple chronic conditions in their residences can reduce hospital and emergency room visits and achieve significant savings.

This amendment adds the following to the Chairman's Mark.

The IAH program:

- Creates a chronic care coordination pilot project to bring primary care services to the highest cost Medicare beneficiaries with multiple chronic conditions in their home.
- Generates savings by providing better, more coordinated care to beneficiaries with multiple chronic conditions, reducing duplicative and unnecessary services, and avoiding unnecessary hospitalizations and emergency room visits.
- Holds providers accountable for quality outcomes, patient satisfaction and achieving cost savings to Medicare.
- Creates incentives for providers to develop better and lower cost health care for the highest cost beneficiaries.
- Is based on successful house calls programs operating by the Veteran's Administration and other providers across the country.

Offset: This amendment will not result in increased cost.

**Wyden Amendment #D3 to the Chairman's Mark of America's Healthy Future Act of 2009
Title III Subtitle B Part I**

Short Title: Empowering Medicare Patient Choices

Description:

This amendment is to add the bipartisan Wyden-Gregg bill, the Empowering Medicare Patient Choices Act of 2009 (S. 1133) to the Chairman's Mark. This legislation empowers and educates patients using patient decision aids to help them find the best treatment for conditions like chronic back pain.

Offset: Reduce market baskets uniformly across Medicare Part B as needed to offset the increases.

Wyden Amendment #D4 to the Chairman's Mark of America's Healthy Future Act of 2009
Title III Subtitle B Part I

Short Title: Medicare Efficiency and Fairness Amendment

Description of Amendment: The amendment would limit the application of any payment reductions, reimbursement rate changes or other reductions in spending in Medicare to states where the average Medicare spending per enrollee over the past 5 years has been above the median Medicare spending per enrollee. No reduction should drop a state below the median Medicare spending per enrollee amount for 2009.

Offset: This amendment will not result in increased cost.

Wyden Amendment #D5 to the Chairman's Mark of America's Healthy Future Act of 2009

Short Title: Health Homes

Description: To ensure the participation of nurses, physicians, and other providers can lead the coordination of patient care as “health homes.”

Strike every reference to “medical home” in the Mark and replace with “health home.”

Offset: This amendment will not result in increased cost.

Wyden Amendment #D6 to the Chairman's Mark of America's Healthy Future Act of 2009 Title III, Subtitle B, Part II

Short Title: Rural Health Clinic Patient Access and Improvement Act

Description: This amendment adds the following to the Chairman's Mark.

The amendment is based on the bipartisan Rural Health Clinic Improvements Act (S. 1355) sponsored by Senators Barrasso and Wyden, would increase the rural health clinic cap from \$75 per visit to \$92 per visit in 2010. Each subsequent year the cap would increase based on MEI. It would also give incentive payments for Rural Health Clinic Quality Reporting. Incentive payments in the amount of \$2 per visit shall be made to rural health clinics with respect to eligible professionals who furnish rural health clinic services during the period beginning on January 1, 2010, and ending on December 31, 2013. The Secretary shall conduct a study on the quality reporting initiative.

Also, this amendment would also allow rural health clinics to contract with Community Health Centers, providing that they set policies to ensure nondiscrimination based upon the ability of a patient to pay and the establishment of a sliding fee scale for low-income patients.

Requires a GAO report on diabetes education and medical nutrition therapy services.

Establishes a rural health provider demonstration project.

Defines a rural health clinic as "A facility that is in operation, that qualifies as a rural health clinic under this title or title XIX and that subsequently fails to satisfy the requirement in clause (i) that the clinic is not located in an urbanized area, shall, with respect to services furnished on or after the date of enactment of the Rural Health Clinic Patient Access and Improvement Act of 2009, be considered, for purposes of this title and title XIX, as still satisfying such requirement if it is determined that the clinic is located in an area defined by the State and certified by the Secretary as rural."

The amendment sets a minimum standard for Medicare Advantage payments.

Includes a Sense of the Senate regarding the adequacy of network based health plans.

Offsets: Create a specific exemption to allow health plan sponsors to encourage beneficiaries to utilize lower-cost generic drugs by allowing them to waive copays as an incentive to get the beneficiaries to try a generic drug. This practice is commonly known as the "Free Generic Fill." In the commercial sector, plan sponsors routinely waive from one to three months worth of copays in order to encourage patients to try generics. They do this because the amount the plan saves overall substantially outweighs the forgone copays as generics typically cost between 60-90% less than a branded pharmaceutical.

In the commercial market, plan sponsors that have offered Free Generic Fill can expect a conservative 5% uptake (beneficiaries taking advantage of the program), and correspondingly increasing their generic fill rate (GFR) by 2%. The Congressional Budget Office has scored every 1% increase in GFR as saving the government \$1 billion, therefore the potential to save money in Medicare is real.

Wyden Amendment #D7 to the Chairman's Mark of America's Healthy Future Act of 2009 Title III, Subtitle B, Part 2

Short Title: Amends Title XVIII of the Social Security Act to provide flexibility in the manner in which beds are counted for purposes of determining whether a hospital may be designated as a critical access hospital under the Medicare program and to exempt from the critical access hospital inpatient bed limitation the number of beds provided for certain veterans.

Description:

This amendment adds the following to the Chairman's Mark. The amendment is based on the bipartisan Critical Access Hospital Flex Act (S. 307) cosponsored by Senators Crapo and Wyden. It amends title XVIII (Medicare) of the Social Security Act with respect to state Medicare rural hospital flexibility programs, in particular the criteria for designation of critical access hospitals.

Revises requirements for the counting of beds for purposes of determining whether a hospital may be designated as a critical access hospital. Allows a facility to provide a maximum of 20 (currently 25) acute care inpatient beds, as determined on an annual, average basis. Declares that only occupied beds shall be counted.

Exempts from the critical access hospital inpatient bed limitation beds provided to certain veterans.

Offset: Create a specific exemption to allow health plan sponsors to encourage beneficiaries to utilize lower-cost generic drugs by allowing them to waive copays as an incentive to get the beneficiaries to try a generic drug. This practice is commonly known as the "Free Generic Fill." In the commercial sector, plan sponsors routinely waive from one to three months worth of copays in order to encourage patients to try generics. They do this because the amount the plan saves overall substantially outweighs the forgone copays as generics typically cost between 60-90% less than a branded pharmaceutical.

In the commercial market, plan sponsors that have offered Free Generic Fill can expect a conservative 5% uptake (beneficiaries taking advantage of the program), and correspondingly increasing their generic fill rate (GFR) by 2%. The Congressional Budget Office has scored every 1% increase in GFR as saving the government \$1 billion, therefore the potential to save money in Medicare is real.

**Wyden Amendment #D8 to the Chairman's Mark of America's Healthy Future Act of 2009
Title III, Subtitle B, Part 2**

Short Title: Rural Health Clinic Patient Access and Improvement and Critical Access Hospital Flexibility Act.

Description:

This amendment adds the following two pieces of legislation to the Chairman's Mark.

Rural Health Clinic Improvements Act (S. 1355) sponsored by Senators Barrasso and Wyden, would increase the rural health clinic cap from \$75 per visit to \$92 per visit in 2010. Each subsequent year the cap would increase based on MEI. It would also give incentive payments for Rural Health Clinic Quality Reporting. Incentive payments in the amount of \$2 per visit shall be made to rural health clinics with respect to eligible professionals who furnish rural health clinic services during the period beginning on January 1, 2010, and ending on December 31, 2013. The Secretary shall conduct a study on the quality reporting initiative.

Also, this amendment would also allow rural health clinics to contract with Community Health Centers, providing that they set policies to ensure nondiscrimination based upon the ability of a patient to pay and the establishment of a sliding fee scale for low-income patients.

Requires a GAO report on diabetes education and medical nutrition therapy services.

Establishes a rural health provider demonstration project.

Defines a rural health clinic as "A facility that is in operation, that qualifies as a rural health clinic under this title or title XIX and that subsequently fails to satisfy the requirement in clause (i) that the clinic is not located in an urbanized area, shall, with respect to services furnished on or after the date of enactment of the Rural Health Clinic Patient Access and Improvement Act of 2009, be considered, for purposes of this title and title XIX, as still satisfying such requirement if it is determined that the clinic is located in an area defined by the State and certified by the Secretary as rural."

The amendment sets a minimum standard for Medicare Advantage payments.

Includes a Sense of the Senate regarding the adequacy of network based health plans.

Critical Access Hospital Flex Act (S. 307) sponsored by Senators Crapo and Wyden amends title XVIII (Medicare) of the Social Security Act with respect to state Medicare rural hospital flexibility programs, in particular the criteria for designation of critical access hospitals.

Revises requirements for the counting of beds for purposes of determining whether a hospital may be designated as a critical access hospital. Allows a facility to provide a maximum of 20

(currently 25) acute care inpatient beds, as determined on an annual, average basis. Declares that only occupied beds shall be counted.

Exempts from the critical access hospital inpatient bed limitation beds provided to certain veterans.

Offset: Create a specific exemption to allow health plan sponsors to encourage beneficiaries to utilize lower-cost generic drugs by allowing them to waive copays as an incentive to get the beneficiaries to try a generic drug. This practice is commonly known as the “Free Generic Fill.” In the commercial sector, plan sponsors routinely waive from one to three months worth of copays in order to encourage patients to try generics. They do this because the amount the plan saves overall substantially outweighs the forgone copays as generics typically cost between 60-90% less than a branded pharmaceutical.

In the commercial market, plan sponsors that have offered Free Generic Fill can expect a conservative 5% uptake (beneficiaries taking advantage of the program), and correspondingly increasing their generic fill rate (GFR) by 2%. The Congressional Budget Office has scored every 1% increase in GFR as saving the government \$1 billion, therefore the potential to save money in Medicare is real.

Wyden Amendment #D9 to the Chairman's Mark of America's Healthy Future Act of 2009
Title I, Subtitle A

Short Title: The Confidence in Long-Term Care Insurance Act (S. 1177) proposes greater consumer protection, increased consumer information and choice, and increased competition among private insurers.

Brief Description:

The amendment adds the following to the Chairman's Mark.

Directs the Secretary of HHS to request the National Association of Insurance Commissioners (NAIC), which represents all state insurance commissioners (NAIC) to conduct national surveys of LTCI markets every five years to generate needed data on lapse rates, numbers of policyholders exhausting benefits, and other key market parameters. Amends the Health Information Portability and Accountability Act (HIPAA) and the Deficit Reduction Act (DRA) to require compliance with all minimum NAIC 2000 and 2006 standards in order to reduce state-to-state variability, including procedures that are designed to keep premium rates stable over time. The amendment proposes to make a series of commonsense improvements to current law, such as requiring NAIC to form a working group that would develop model disclosures and definitions of key benefits offered in LTCI policies, and requiring the Secretary to set up a website known as "Long-Term Care Insurance Compare" to allow consumers to easily and accurately compare benefits, premiums, and other important features of policies and companies much more readily than they can today. LTCI Compare would also provide links to state websites for information on services offered under state Medicaid programs for individuals with Partnership policies. Importantly, the amendment improves consumer protections for Medicaid Partnership Policies and tax-qualified policies by streamlining the process for applying new/updated consumer protection model provisions as they are developed by NAIC.

Offset: This amendment will not result in increased cost.

Wyden Amendment #D10 to the Chairman's Mark of America's Healthy Future Act of 2009 Title III, Subtitle B, Part I

Short Title: Personalized Medicine and Access to Critical Lab Tests

Cosponsors: Carper

Description:

Present Law

In cases when a laboratory test is ordered less than 14 days after a beneficiary leaves a hospital, the hospital collecting the sample must bill for the laboratory services.

This amendment adds the following Proposed Change to the Chairman's Mark.

This amendment would provide that for the two-year period beginning on the date of enactment, the laboratory furnishing the test could bill for the test provided the test meets the following criteria:

- The test is an analysis of DNA, RNA, chromosomes, proteins, or metabolites that detects, identifies, or quantitates genotypes, mutations, chromosomal changes, biochemical changes, cell response, protein expression, or gene expression or similar method or is a cancer chemotherapy sensitivity assay or similar method, but does not include methods principally comprising routine chemistry or routine immunology;
- The test is developed and performed by a laboratory that is independent of the hospital where the sample was collected;
- The test is not furnished by the hospital where the sample was collected directly or under arrangements; and
- The sample was collected during a hospital encounter or stay, and is performed after the beneficiary leaves a hospital.

Offset:

Short Summary

This offset reduces Medicare spending and improves quality of care for amputees and persons with limb impairments by:

- 1) requiring Medicare to make payment only for those orthotic and prosthetic services provided by licensed providers in States that require State licensure;
- 2) requiring providers meet accreditation/credentialing already articulated in federal statute in order to receive Medicare payment; and
- 3) re-aligning the Medicare Orthotic and Prosthetic fee schedule so that Medicare payment is linked to the complexity of the device the patient needs and the qualifications of the provider of the orthotic and prosthetic services.

This amendment exempts physicians, physical therapists and occupational therapists who are already licensed or otherwise certified by Medicare and are currently being paid by Medicare to provide these services.

Wyden Amendment #D11 to the Chairman's Mark of America's Healthy Future Act of 2009 Title III, Subtitle B, Part I

Short Title: Take Back Your Health Amendment

Description:

This amendment adds the following to the Chairman's Mark.

With revolutions in wellness, prevention, and treatment, physicians and patients could enter the "Take Back Your Health" program which helps patients fight chronic disease and stipulates that providers won't get paid unless they keep their patients out of the hospital for their chronic illness.

This amendment is based on the bipartisan legislation, the Take Back Your Health Act (S. 1640) sponsored by Senators Wyden, Harkin, and Cornyn, which amends H.R. 6331, the "Medicare Improvements for Patients and Providers Act of 2008" in order to reimburse treatment programs of intensive lifestyle changes that have been scientifically proven to stop or reverse the progression of chronic diseases such as coronary heart disease, diabetes, prostate cancer/breast cancer, and obesity. This amendment reframes a common misconception about lifestyle changes, which are often incompletely viewed as providing only risk factor reduction or prevention.

Intensive lifestyle treatment programs as an intensive non-surgical, non-pharmacologic intervention have been shown in randomized controlled trials to be highly effective not only at *preventing* chronic diseases but also at *reversing* the progression of these illnesses. Several demonstration projects have shown that using intensive lifestyle treatment programs to treat chronic diseases causes substantial reductions in costs during the first year. Thus, treatment programs of intensive lifestyle changes are not only medically effective but also cost effective.

Health teams, consisting of physicians, nurses, nutritionists, mental health workers and other health professionals would provide the Intensive Lifestyle Treatment Plan

This proposed legislation will reimburse physicians and other health professionals who train patients to make and maintain intensive lifestyle changes that are proven to be safe and effective in beneficially treating and reversing chronic diseases.

Offset: To be determined when offered if needed.

Wyden Amendment #D12 to the Chairman's Mark of America's Healthy Future Act of 2009 Title III, Subtitle A, Part III

Short Title: Authorizing the Use of New Technologies that Empower Patients and Their Providers to Get More Value in Accountable Care Organizations

Description: This amendment adds the following to the Chairman's Mark.

Allow Accountable Care organizations to use telehealth, remote patient monitoring, and other such enabling technologies to help achieve savings.

Offset: This amendment will not result in increased cost.

Wyden Amendment #D13 to the Chairman's Mark of America's Healthy Future Act of 2009 Title III, Subtitle A, Part 2

Short Title: To Encourage Integrated Care Delivery Across All Care Settings through Integrated Health Clinics

Description:

This amendment adds the following to the Chairman's Mark.

The provision allows for the organization of providers or groups of health care professionals in a separate entity established to provide integrated inpatient and ambulatory care services solely through contract with or employment of medical and professional personnel. Federal and state laws and regulations which would prevent or inhibit the separate corporation from carrying out such required integrated care activities and objectives would not apply.

Offset: This amendment will not result in increased cost.

Wyden Amendment #D14 to the Chairman's Mark of America's Healthy Future Act of 2009 Title III, Subtitle A, Part IV

Short Title: Getting the Best Possible Training for Home Health and Other Workers Who Provide Hands-On Care

Description:

Meeting the health needs of baby boomers will create new jobs for individuals trained in geriatric care, in addition to meeting the current high demand for such individuals. Direct care workers, nurse aides, home health aides, and personal and home care aides are the primary providers of paid hands-on care, supervision, and emotional support for older adults in the United States. The Institute of Medicine report, entitled "Retooling for an Aging America" described direct care workers, nurse aides, home health aides, and personal and home care aides as the linchpin of the formal health care delivery system for older adults.

This amendment adds the following to the Chairman's Mark.

The Secretary shall develop additional training content for nurse aides and home health aides to supplement training for nurse aides and home health aides that is required under Federal law or regulation. The Secretary shall, in consultation with an expert panel, implement the program with respect to additional training content activities not later than 18 months after such date of enactment. Not later than 120 days after the date of enactment of this Act, the Secretary shall establish a panel of long-term care workforce experts. For purposes of the program, the additional and revised training content developed shall only apply with respect to newly hired home health aides and nurse aides.

The expert panel shall be composed of 11 members appointed by the Secretary from among leading experts in the long-term care field, including representatives of personal or home care agencies; home health care agencies; nursing homes and residential care facilities; the disability community (including the mental retardation and developmental disability communities); the nursing community; national advocacy organizations and unions that represent direct care workers; older individuals and family caregivers; State Medicaid waiver program officials; curriculum developers with expertise in adult learning; researchers on direct care workers and the long-term care workforce; and geriatric pharmacists. Not less than 2 of the 11 members appointed by the Secretary shall represent the interests of individuals who rely on long-term care services. Not later than 1 year after the date of enactment of this Act, the expert panel shall submit a report to the Secretary.

Offset: To be determined when offered if needed.

Wyden Amendment #D15 to the Chairman's Mark of America's Healthy Future Act of 2009

Short Title: Requiring the Medicare Payment Advisory Commission to Consider Medicaid Payments When Making Recommendations to Congress on Medicare Reimbursement for Skilled Nursing Facilities

Description:

This amendment adds the following to the Chairman's Mark.

The Medicare Payment Advisory Commission shall review, and take into account, the interaction of Medicaid payment policies with Medicare payment policies for services provided in skilled nursing facilities when making Medicare payment recommendations for skilled nursing facilities. In doing such a review, the commission shall review Medicaid trends, spending and margins for skilled nursing facilities, and look at net margins for nursing homes from all payment sources.

Offset: This amendment will not result in increased cost.

Wyden Amendment #D16 to the Chairman's Mark of America's Healthy Future Act

Short Title: Ensuring Quality Hospice Care

Description of Amendment: To ensure the quality of hospice care is not reduced

Offset: To be determined

Wyden Amendment #D17 to the Chairman's Mark of America's Healthy Future Act

Short Title: Ensuring Continuation of Benefits for Seniors Covered Under Medicare Advantage

Description of Amendment: To ensure that seniors participating in Medicare Advantage continue to receive good quality, affordable benefits

Offset: To be determined